

COMMONWEALTH OF MASSACHUSETTS

DEPARTMENT OF TELECOMMUNICATIONS AND ENERGY

Petition of Boston Edison Company,)	
Cambridge Electric Light Company and)	
Commonwealth Electric Company d/b/a)	
NSTAR Electric for Approval by the)	
Department of Telecommunications and)	D.T.E. 05-84
Energy of Proposed Revised Tariffs)	
Relating to the Companies' Terms and)	
Conditions for Distribution Services and)	
Competitive Suppliers, Respectively)	

INITIAL COMMENTS OF RETAIL ENERGY SUPPLY ASSOCIATION

Introduction and Summary of Argument

The Retail Energy Supply Association ("RESA") is a nonprofit organization and trade association that represents the interests of its members in regulatory proceedings in the New England, New York and Mid-Atlantic regions. RESA's members include providers of competitive supply to end user customers in the five New England states that have implemented electric deregulation. Pursuant to the Department's November 30, 2005 notice in this docket ("Notice"), RESA submits these comments on the proposed revised tariffs and supporting pre-filed testimony filed on November 21, 2005 by Boston Edison Company, Cambridge Electric Light Company, and Commonwealth Electric Company d/b/a NSTAR ("NSTAR" and "NSTAR Filing," respectively).¹

¹ RESA member companies include Amerada Hess Corporation, Constellation NewEnergy, Inc., Direct Energy Services, LLC, Reliant Energy Solutions, Select Energy, Inc., Sempra Energy Solutions, Strategic Energy LLC, SUEZ Energy Resources NA, Inc. and U.S. Energy Savings Corp. The opinions expressed in these Comments may not represent the views of all members of RESA.

The NSTAR Filing asserts the existence of “gaming” of retail electricity markets by retail electricity suppliers in the Commonwealth. Specifically, in the pre-filed testimony of James G. Daly, NSTAR’s Director of Electricity and Gas Energy Supply, NSTAR alleges that: (1) retail suppliers are gaming the system by moving customers onto and off of default service;² (2) the gaming has caused extreme load volatility which has reduced the level of bidding by wholesale generation suppliers; and (3) the reduction in bidding has increased default service prices for all customer groups. To resolve these widespread “gaming” problems, NSTAR proposes new tariff language that will prevent commercial and industrial (“C&I”) consumers that return from competitive supply to default service from contracting with their former retail electricity supplier for a six-month period.³

The General Court and the Department have worked hard to establish a sound statutory and regulatory framework⁴ that has allowed the retail supply community to establish a vibrant retail electricity market and that has saved local businesses and

² The Department has recently renamed “default service” to “basic service.” D.T.E. 04-115-A (2004), p. 9. In these Comments, RESA continues to use the term “default service” to be consistent with the term used in the NSTAR tariffs and the NSTAR Filing.

³ NSTAR’s proposed tariff language reads in pertinent part as follows:

The Company shall reasonably accommodate a change from Default Service or Generation Service to a new Competitive Supplier in accordance with the Terms and Conditions for Competitive Suppliers and shall accommodate a change to Default Service from Generation Service, provided, however, that when a Customer changes from a Competitive Supplier to Default Service, the Customer is not permitted to return to the same Competitive Supplier for a period of six (6) months from the effective date of the change. Customers are permitted to switch from Default Service to a different Competitive Supplier who has not supplied the Customer with Generation Service in the same six (6) month period.

⁴ See An Act Relative to Restructuring the Electric Utility Industry in the Commonwealth, St. 1997, c. 164 codified as G.L. c. 164, §§ 1 *et seq.* (“Electricity Restructuring Act”); 220 CMR 11.04 (electric competition regulations); see also Docket No. 02-40 (default service investigation); Docket No. 04-115 (default service and competitive supply for residential and small commercial customers).

consumers over two billion dollars in electricity costs,⁵ thereby bolstering the local economy. Indeed, Massachusetts is a notable success story regionally and nationally in the development of competitive retail markets.⁶ RESA vehemently opposes the proposal contained in the NSTAR Filing and any measures that would eliminate or significantly curtail customer choice and, in return, harm the continued development of a robust retail electricity market in Massachusetts.

RESA's comments in response to the Notice can be organized into two general categories. First, RESA strongly disputes the allegations in the NSTAR Filing and in the press⁷ that retail suppliers are engaging in widespread gaming and that such gaming is increasing electricity prices for commercial and residential default service customers. These allegations are unsupported and, from RESA's perspective, misleading and likely designed to publicly blame others for the expected high electricity prices during the upcoming winter heating season. Examination of the NSTAR Filing reveals that it is virtually devoid of any documentation or other evidence supporting the allegations of "gaming" and harm to wholesale markets or to Massachusetts businesses and consumers resulting from customers shifting onto or off of default service. Most notably, the

⁵ The AIM Foundation, Electric Industry Restructuring in Massachusetts: Progress in Achieving the Goals of the Restructuring Act, October 2005, Prepared by Polestar Communications & Strategic Analysis.

⁶ As of September, 2005 over 50 percent of large commercial and industrial ("C&I") customers accounting for 73 percent of the load were being served by competitive retail suppliers. See Massachusetts Division of Energy Resources, 2005 Electronic Power Customer Migration Data.

⁷ See, e.g., Peter J. Howe, NSTAR Asks for Rate Hikes; Utility Says Suppliers Engage in Profiteering, The Boston Globe, Nov. 5, 2005, at B7 (claiming that generators and electric marketing companies are "price gouging customers" and that "'bad things are going on in the marketplace'"); Peter J. Howe, Small Businesses Footing Higher Bill for Electric Deregulation, Utilities Say, Nov. 22, 2005, at D1 ("Smaller businesses are being hurt by 'an unfair manipulation, or gaming, of the system that increases prices to customers who do not or cannot secure supply from the competitive market'"). NSTAR made public its allegations in early November, almost three weeks before submitting the instant filing on November 24, 2005.

NSTAR Filing fails to consider the shopping practices by managers at Massachusetts companies and fails to offer any evidence or quantification of other factors that might be affecting wholesale electricity procurements. For these and other reasons, the Department should not even consider the merits of NSTAR's proposal.

Second, the Department should investigate alternatives that would target more precisely the causes of default service volatility and enhance, rather than disrupt, the functioning of the present competitive market in the Commonwealth. For instance, implementing policies that promote the risk-managed products and services affected by competitive energy suppliers would benefit customers. To that end, RESA urges the Department to consider an hourly pricing model for large C&I default service customers because it would eliminate any incentive for customer switching onto and off of default service, foster retail competition, enhance customer choice and bring other important consumer and societal benefits as well. If that model cannot be adopted in the short term, the Department should consider moving to a one-month cycle for the procurement of default service power for large C&I customers as a transitional step toward attaining the hourly pricing goal or other competition-friendly alternatives.

Summary of NSTAR's Evidence and Conclusions

NSTAR's support for its allegations of widespread gaming and the need to implement a six-month period in which customers are barred from contracting with their existing retail electricity suppliers appears in the pre-filed testimony of James G. Daly, NSTAR's Director of Electricity and Gas Energy Supply. Mr. Daly claims that NSTAR's "most recent solicitations" for default service elicited fewer bids from wholesale suppliers and, therefore, NSTAR decided to investigate the cause of this

“trend.”⁸ As a part of that investigation, NSTAR purportedly asked some of its wholesale generation suppliers why there was a decreased level of responses to its Request for Proposals (“RFPs”) for the power supply of large C&I consumers that are using default service.⁹ According to Mr. Daly, one of the reasons cited for the “less vibrant level” of bidding was the increased volatility of the medium and large C&I customer load.¹⁰ He then surmises that the incremental level of volatility is due to the actions of retail competitive suppliers:

The incremental level of load volatility on Default Service results from retail competitive suppliers moving large C&I customer load onto Default Service when the wholesale market price is higher than the Default Service price. Essentially, retail competitive suppliers avail themselves of a free option to park load on Default Service and then sell the power that would have been used otherwise to service that load at a higher price in the market.¹¹

In support of that proposition, Mr. Daly offers statistics for a two-year period that were assembled by NSTAR:

For the two years studied, approximately 36 percent of the large C&I customer accounts that switch from competitive supply to Default Service switched back to competitive supply during the year. Of these accounts, 82 percent return to the same competitive supplier.¹²

Based on these statistics, Mr. Daly concludes that retail suppliers are engaged in “an unfair manipulation, or ‘gaming’ of the system that increases prices to customers who do not or cannot secure supply from the competitive market,” including residential and small

⁸ Pre-filed Testimony, p. 4.

⁹ Id.

¹⁰ Id.

¹¹ Id.

¹² Id. at 7.

C&I customers.¹³ That is so, Mr. Daly posits, because it raises the prices of wholesale power supply bids or inhibits bidding altogether.¹⁴ He therefore maintains that this gaming problem must be addressed and proposes the solution that forms the basis for NSTAR's revised tariffs.¹⁵ Under the terms and conditions of the proposed tariffs, a customer that transitions from competitive generation service to default service would be precluded from returning to the same retail competitive supplier for a six-month period commencing with the effective date of the change to default service.¹⁶

Argument

I. NSTAR HAS NOT SUBSTANTIATED ITS CLAIMS OF EXCESSIVE GAMING AND ADVERSE IMPACTS ON ELECTRICITY MARKETS

As more fully discussed in Section II, the proposed six-month prohibition on a customer's ability to interact with its existing supplier is unacceptable because it will limit choice and competitive options for Massachusetts consumers, disrupt the ongoing development of retail energy markets in the Commonwealth and harm retail competitive suppliers. If the Department is not going to reject these proposed tariff changes outright, it should require NSTAR to present convincing evidence on all of the following facts before considering further action: (1) a pervasive gaming problem exists in Massachusetts; (2) such gaming is obstructing the wholesale bidding process in a real and enduring fashion; and (3) the altered bidding paradigm is leading to intolerable price

¹³ Id. at 8.

¹⁴ Id. at 9.

¹⁵ Id.

¹⁶ Id. The relevant tariff language is reproduced in footnote 3 supra.

increases for default service customers. As discussed below, the evidence cited in NSTAR's filing fails to prove any one of the three propositions.

A. The Statistics Cited by Mr. Daly Are Not Evidence of "Gaming"

NSTAR's conclusion that wide-spread gaming exists in Massachusetts is predicated exclusively on the statistics cited by Mr. Daly in his pre-filed testimony.¹⁷ Mr. Daly, however, does not even attempt to define NSTAR's position regarding what is "gaming" and what is "smart shopping." Put another way, the statistics fail to account for switches that are the legitimate and exclusive product of customer choice.

Many medium and large C&I customers move off of competitive supply for any number of reasons. Some move temporarily to default service at the conclusion of their competitive supply contracts while they investigate supply options for future periods. Others are simply not in a position to renew their contracts at their termination dates due to competing business priorities, inability to obtain corporate approvals on a timely basis, or mere forgetfulness. Furthermore, many large C&I customers are sophisticated energy consumers that actively monitor energy prices in the market. If these customers believe that they can realize lower energy costs by moving to default service for a period of time, they can and do make the decision to initiate the switch without active urging of their usual retail supplier. For these reasons, the statistics cited by Mr. Daly do not prove that retail suppliers are engaged in gaming or other manipulative business practices. On the contrary, they illustrate, at least in part, that customers are making informed and intelligent decisions in the management of their energy costs. Indeed, customers' ability to choose an energy product that best fits their needs is the hallmark of a robust and well-functioning market.

¹⁷ See id. at 7.

B. The Reduced Level of Wholesale Bidding May Be a Short-Term Anomaly or Due to Factors Unrelated to What NSTAR Alleges is “Gaming”

NSTAR alleges that it has experienced a “less vibrant level” of response to its “most recent RFPs.”¹⁸ In addition to not quantifying the nature and time periods associated with any reduction in bidding on wholesale supply procurements, NSTAR has offered no evidence that the reduced level of bidding is an enduring problem that is directly attributable to gaming-related load volatility. In fact, Mr. Daly readily admits that the reduced bidding is due to multiple factors. He states:

Among other causes, the Companies determined based on feedback from suppliers that wholesale generation suppliers have been deciding whether to bid on Default Service RFPs, and at what price, based on the volatility of the large C&I customer load available to be served.¹⁹ (Emphasis added).²⁰

Mr. Daly never discusses, let alone attempts to quantify, the “other causes.” Any reduction in wholesale RFP responses in the NSTAR service territories may be due to a myriad of factors, including uncertainties regarding congestion costs and the costs of Reliability Must Run (“RMR”) contracts, the size of such costs in the North East Massachusetts (“NEMA”) load zone in which most of NSTAR’s service territory is located, and concerns about lingering hurricane-related impacts on gas and oil supplies and prices. The timing of the NSTAR filing, immediately at a period when all of the above factors are evident, suggests extreme caution about acting precipitously to solve a “problem” that might disappear by the Spring. The Department should require NSTAR to provide data to quantify the alleged reduction in responses to RFPs and prove that any

¹⁸ Id. at 4.

¹⁹ Id.

²⁰ Id.

such reduction is due to switching on and off of competitive supply and not “other causes.”

C. Increased Volatility in the Large C&I Customer Load Does Not Adversely Affect Bid Assumptions for Small Default Service Customers

Mr. Daly also seeks to justify NSTAR’s proposed tariffs by opining that the switching of large C&I customers onto and off of default service harms all customers who use that service. The most adverse impact, Mr. Daly contends, inures to the smaller customers because they cannot readily turn to the retail market for lower-cost offerings.

To that end, Mr. Daly explains:

[G]aming results in a level of Default Service load volatility that leads to bid assumptions by wholesale generation suppliers that increase costs for those customers that do not game the system, namely smaller customers Therefore, the practice of multiple switching must be addressed in order to reduce Default Service load volatility, and, consequently, to achieve lower Default Service Pricing, for the benefit of all customers.²¹

Mr. Daly’s reasoning is flawed. The default service power supply for large C&I customers is procured separately from the supply for residential and small C&I customers.²² Accordingly, any load volatility inherent in the large C&I customer base would not affect the “bid assumptions” and resulting default service prices for smaller customers. Thus, NSTAR’s proposed restriction on customer choice cannot be justified

²¹ Id. at 9.

²² See D.T.E. 02-40-B (2000) at p. 45 (ordering distribution companies to procure 50 percent of their default service power supply for residential and small C&I customers every six months for twelve-month terms); D.T.E. 02-40-C (2000), p. 39 (directing distribution companies to procure all of their power supply for large C&I customers on a quarterly cycle).

on the ground that it necessarily would lower default service prices for small businesses and individuals.

NSTAR also has not established that its proposed six-month prohibition would lead to reduced default service prices for large C&I customers, as Mr. Daly implies, or that such a reduction would necessarily justify such a measure. First, NSTAR has provided absolutely no evidence that the alleged “gaming” has resulted in higher prices. Second, even if one assumes for argument sake that there has been a price increase, NSTAR has made no attempt to quantify it (e.g., is there a one percent increase? Five percent increase?). Thus, it has not shown that the problem is sufficiently serious to warrant regulatory action. Third, the Department has made clear that the purpose of default service for the large customer segment is not to provide the lowest-cost option; rather, it is “to function as a basic service that provides customers with the appropriate incentives to turn to the competitive market for more sophisticated or advantageous service offerings.”²³ Thus, when medium and large C&I customers receive accurate market prices and conclude that the default service price is too high, they can seek out risk-managed, market-based alternatives.²⁴

D. Conclusion

NSTAR’s justification for its proposed tariffs fails on every front. There is no real evidence of a gaming problem; NSTAR has not proved that the decreased level of bidding stems predominantly from increased load volatility associated with switching;

²³ D.T.E. 02-40-B, p. 7.

²⁴ NSTAR also claims that lower credit quality customers do not have the same access to competitive suppliers that higher credit quality customers do. While it is true that higher credit quality customers are more attractive to retail suppliers, RESA members are ready, willing and able to serve lower-credit customers by implementing measures that would protect against non-payment.

NSTAR has not proved what the cost impact of any increased load volatility is; and Mr. Daly's assertion that the tariffs are needed to achieve lower default service prices for all customer classes is based on faulty reasoning. The Department should reject the proposed tariffs outright.

II. THE DEPARTMENT SHOULD FASHION SOLUTIONS OTHER THAN NSTAR'S SIX-MONTH PROHIBITION

A. The NSTAR Solution is Fatally Flawed and Should Not Be Adopted

Although NSTAR has not even proved that a gaming problem exists, it nonetheless proposes a solution that it claims will cure the problem and render the default service load more predictable. NSTAR's proposed solution for its allegation of excessive gaming is summarized in Mr. Daly's pre-filed testimony:

The revisions [to the tariffs] entail the inclusion of a prohibition on customers taking Default Service from returning to the same retail supplier that previously served them for a period of six months from the effective date of change from competitive generation service to Default Service. A customer would not be prohibited from returning to competitive generation within six months of leaving it, if the customer chose a retail competitive supplier that was different from the supplier that had served the customer during the preceding six months. Therefore, a customer would remain free to switch to any other supplier.²⁵

This solution is flawed in multiple respects and should not be adopted even if the Department concludes that some regulatory changes are needed.

1. The NSTAR Model Would Not Eliminate Migration Risk

The NSTAR solution would not solve the problem that purportedly inspired it – namely migration risk. Under the NSTAR model, large C&I customers would remain free to reenter the competitive market at any time, which is an option that many

²⁵ Pre-filed Testimony, pp. 9-10.

undoubtedly will exercise. When that occurs, migration risk will be reintroduced into the equation, and, therefore, the default service supply will be no more predictable.

2. The NSTAR Model Would Thwart Retail Competition,
Thereby Harming Massachusetts Customers

There is no question that NSTAR's proposal will harm retail competition, thereby limiting customer choice and harming Massachusetts consumers. Retail suppliers invest a considerable amount of time building the customer relationship and gaining an in-depth knowledge of a customer's business and energy needs. This continuing relationship allows customers to receive innovative product offerings that satisfy its particular requirements while, at the same time, enables retailers to earn a reasonable profit from that investment. Prohibiting customers from returning to their regular suppliers simply because they switch to default service for a period of time would be inimical to the interests of customers and retailers alike. More significantly, such a switching restriction is fundamentally inconsistent with a cardinal principal of the Electricity Restructuring Act, namely consumer choice – that is, the empowering of a customer to be able to make an informed decision as to whom the customer wants to have as its electricity supplier.

For many customers, it also might lead to higher energy costs. In an emerging market with a limited number of active retail suppliers able to serve the needs of consumers, the elimination of the customer's established supplier would dampen competition and could preclude customer access to the lowest cost supplier.

3. The NSTAR Model Would Undermine the Retail Market

The prohibition proposed by NSTAR would compromise the vitality of the retail market because it would interfere with retail suppliers' ability to market their products

freely without intrusive and unnecessary constraints. Such an approach is inherently anti-competitive and fundamentally undermines the goals of the Electricity Restructuring Act.

4. The Proposed Text of the NSTAR Tariff Change is
 Ambiguous and Overbroad

The true scope of the proposed NSTAR tariff change is ambiguous as illustrated by its relevant text:

[W]hen a Customer changes from a Competitive Supplier to Default Service, the Customer is not permitted to return to the same Competitive Supplier for a period of six (6) months from the effective date of the change. Customers are permitted to switch from Default Service to a different Competitive Supplier who has not supplied the Customer with Generation Service in the same six (6) month period.²⁶

It is unclear how this language would apply in certain situations where a customer wishes to revert to its previous retail supplier during the six-month stay. For example, assume that a customer was served by Supplier A prior to returning to default service on January 1, 2006. On February 1, 2006, the customer returns to the competitive market and, consistent with the mandate of the proposed tariff, is served by Supplier B. On March 1, 2006, the customer wishes to terminate its relationship with Supplier B because it is dissatisfied with that supplier's service. Under the plain language of the proposed tariff, the customer would be prohibited from returning to Supplier A, even though such a move would have no impact on the load volatility of default service customers. Moreover, if Supplier A is precluded by regulation and Supplier B is unacceptable to the customer, the customer may have few additional suppliers from which to choose. That would be an absurd result. For these reasons, the proposed text of NSTAR's tariff language is ambiguous and overbroad.

²⁶ NSTAR Filing, Proposed Tariffs for Commonwealth Electric Company, p. 3.

5. There are Far Better Solutions

In light of these problems, it is not surprising that no other state has adopted a prohibition like that proposed by NSTAR. As discussed in Section B below, RESA suggests that the Department implement policies that promote the risk-managed products and services offered by competitive energy suppliers, such as the adoption of hourly default service pricing as the sole model for large C&I customers. That model would not only eliminate incentives for switching onto and off of default service, but it also would stimulate the retail markets, empower customers to make informed choices of energy suppliers, and achieve other important consumer and societal benefits. If the Department concludes that an hourly pricing model cannot be implemented in the short term, RESA suggests that it adopt a monthly procurement cycle as an interim step toward that end or consider other competition-fostering alternatives.

B. Hourly Pricing is the Optimal Solution

1. Hourly Pricing Would Eliminate Incentives for Switching and Would Stimulate Competition

RESA proposes that the Department adopt by decision or regulations a model whereby default service prices for large C&I customers are based on real-time, hourly energy prices. Because the default service price would mirror the market, the incentive for customers to switch onto and off of default service would be eliminated entirely. Under the present default service regime, prices remain fixed for a three-month period during which time prices may rise above or fall below the market price. In contrast, the default service price under the hourly pricing model would float along with the market price. Thus, there would be no opportunity to move onto and off of default service to take advantage of price differentials.

Hourly pricing also is consistent with the objective of default service for large C&I customers as announced by the Department – that is, to provide efficient market price signals for customers. The goal would be to empower customers to make an informed choice as to which risk managed products and services best suits their individual electricity needs.²⁷ As such, hourly pricing would stimulate the development of competitive markets because many customers likely would prefer some form of risk-managed service from a retail supplier over a default service product that would precisely track real energy market prices. On a related theme, ISO New England, Inc. (the “ISO”) has theorized that dynamic pricing of default service rates also could spawn innovation in the retail marketplace. Specifically, it observed:

[t]he design of default generation service rates can help shape the competitive retail market – i.e., a state requirement that default generation service be priced on a dynamic basis would encourage competitive retail suppliers to provide [new] products in the competitive retail market.²⁸

In short, hourly pricing would advance the overall purpose of the Electricity Restructuring Act.

2. Hourly Pricing Would Bring Other Consumer and Societal Benefits

The Center for Energy, Economic & Environmental Policy (“CEEPP”) at Rutgers University recently studied 40 papers and reports that were published by academic and industry groups around the nation to assess how customers respond to hourly pricing (the

²⁷ D.T.E. 02-40-B, p. 7.

²⁸ Comments of ISO New England, Inc. on Wholesale and Retail Electricity Competition, Nov. 18, 2005, p. 33, Federal Energy Regulatory Commission, Docket No. AD05-17-000 (“ISO Comments”).

“CEEPP Assessment”).²⁹ CEEPP’s findings confirmed RESA’s view that hourly pricing fosters other important consumer and societal benefits. CEEPP summed up its findings in this way:

The vast majority of the literature reviewed endorses real-time pricing as the most efficient approach to achieving demand response and recognizes that the performance of competitive wholesale markets is improved by providing customers with an incentive to respond to high wholesale market prices. [Real-time pricing] could serve to improve market efficiency, mitigate market power, dampen wholesale volatility, and bolster system reliability. Demand response would eliminate intra-class subsidies on the energy portion of customer’s bills by having each customer pay an amount for electricity exactly equal to the costs imposed on the grid.³⁰

The ISO also has commented on the importance of dynamic pricing to the successful attainment of demand response programs:

The structure of retail rates determines the incentives for any retail customer – large, medium, or small – to take part in demand response, particularly in price responsive behavior. While demand response programs that are separate or “unbundled” from retail rates can be designed to give retail customers financial incentives to become more price responsible, such programs are not as effective in delivering price response as dynamic retail prices that vary with changes in wholesale power costs. Additionally, demand response programs that are separate from retail rates are typically financed through “out-of-market” subsidies, which are paid for by those who may not benefit directly from price-responsive behavior.³¹

As noted by CEEPP, effective demand response programs, in turn, can dramatically enhance wholesale markets.³² NSTAR’s proposed limitation on customer choice would bring none of these benefits.

²⁹ CEEPP Assessment, p. 4.

³⁰ Id. at 18.

³¹ ISO Comments, pp. 31-32.

³² CEEPP Assessment, p. 16. Paul L. Joskow, MIT professor and noted authority on the energy

6. Other States Have Adopted the Hourly Pricing Model

Recognizing the unique advantages of hourly pricing, other states have adopted that model. Of particular significance is New Jersey, which mandates that the default service price for the state's largest customers be tied to the PJM's spot market prices.³³ These customers may purchase electric power from a competitive retail supplier as a means of reducing their exposure to potentially volatile spot market prices. In addition, certain large use and interval-metered customers residing in Maryland are eligible for an hourly-priced option as an alternative to a fixed-price default service plan.³⁴ New York and Pennsylvania also offer some form of real-time pricing for their largest customers.³⁵ RESA suggests that the Department follow the lead of these states and implement hourly pricing at the earliest possible date.

C. **A Monthly Procurement Cycle is the Next Best Solution.**

In the event that the Department concludes that it cannot immediately embrace hourly pricing for large C&I customers, RESA suggests that it adopt a monthly

markets, has studied the importance of demand response programs to the improvement of wholesale market performance. He writes:

In markets for most goods and services when demand grows and supply capacity constraints are reached prices rise to ration demand to match the capacity available to provide supplies to the market. In electricity markets, however, as generating capacity constraints are reached, relatively little demand can be [rationed] by short-term price movements and, instead, must be rationed with rolling blackouts The challenges faced by network operators to maintain system reliability and avoid non-price rationing of demand would be reduced if additional demand-side instruments were at his disposal. These include more customers who can see and respond to rapid changes in market prices. (Emphasis added)

Paul L. Joskow, Markets for Power in the United States: An Interim Assessment, Aug. 23, 2005, p. 28.

³³ Id. at 16.

³⁴ Id. at 13. See also <http://www.md.electric-info.com/hot-news/index.html>.

³⁵ CEEEP Assessment, p. 13.

procurement cycle as a transitional step. Although monthly procurements would not bring all of the benefits of an hourly pricing model, it would certainly shorten the time lags that provide opportunities for customer market timing; it also would promote retail competition. Indeed, the Department recognized the desirability of a one-month procurement term in its decision in D.T.E. 02-40-B (2002). Specifically, the Department wrote:

A persuasive, though not yet convincing, case can be made for the proposition that a procurement term of one month would (1) provide efficient price signals to customers because the resulting prices would track wholesale market price on a monthly basis; (2) provide customers with the appropriate level of price certainty; and (3) provide appropriate protection from spot market price volatility. Under this approach, distribution companies would procure their default service supply one month in advance on an on-going basis Customers, in turn, would know the level of default service prices for only the next month [C]ustomers that seek greater price certainty could appropriately turn to the competitive market for these protections.³⁶

Although the Department subsequently determined that a one-month procurement cycle could not be adopted in 2002, it expressed a willingness to explore it in the future.³⁷ This docket presents a perfect opportunity for the Department to reevaluate the desirability of a monthly procurement cycle as a transitional step toward the long-term goal of hourly pricing for large C&I consumers.

D. Other Possible Options

The Department also could consider other competition-friendly alternatives beyond hourly or monthly default service procurement in order to lessen volatility concerns of wholesale suppliers and reduce risk premiums. One option is to bid wholesale procurements in varying-sized tranches, which might improve wholesale

³⁶ D.T.E. 02-40-B (2000), p. 39.

³⁷ D.T.E. 02-40-C (2000), p. 22.


participation by allowing wholesale suppliers to limit risk by bidding on only part of the available load. Another is to shorten the time frame between bidding periods and the effective date the supply enters service, which also would serve to reduce the time periods within which market timing or gaming activities could occur. (Delaying the announcement of bid prices also may have a similar impact.) Finally, the Department could mix and match several of the options discussed in this Section, such as using hourly pricing for very large customers, using monthly pricing for the remaining medium and large customers, and shortening the bidding cycle.

Conclusion

RESA is pleased to participate in this important proceeding for the future of electricity competition in the Commonwealth of Massachusetts. For the reasons discussed above, the Department should summarily deny NSTAR's proposed tariff changes for lack of substantiation. If, however, the Department believes that policy changes are needed at this time, the Department should reject NSTAR's proposed six-month stay and, instead, fashion solutions that are better suited to customer choice in competitive electricity markets. In that event, RESA urges the Department to implement hourly pricing default service for large customers or, alternatively, move to monthly wholesale procurement as an interim measure or consider other competition-friendly alternatives.

Respectfully submitted,

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